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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 JUAN MUNOZ,
12 CDCR #D-52837,

13 Plaintiff,

14 vs.

15 M. FREDRICK, et al.,

16 Defendants.
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Civil No. 09-1303 IEG (WMc)

**ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT OF
COUNSEL**

[ECF No. 98]


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21 Plaintiff, an inmate currently incarcerated at Kern Valley State Prison located in Delano,
22 California, and proceeding pro se, has filed an action pursuant to 42 U.S.C. § 1983. Plaintiff
23 has now filed a second "Motion for Appointment of Counsel." [ECF No. 98]. "[T]here is no
24 absolute right to counsel in civil proceedings." *Hedges v. Resolution Trust Corp. (In re Hedges)*,
25 32 F.3d 1360, 1363 (9th Cir. 1994) (citation omitted). "Title 28 U.S.C. § 1915(e)(1) permits the
26 district court, in its discretion, to 'request an attorney to represent any person unable to afford
27 counsel.'" *Solis v. County of Los Angeles*, 514 F.3d 946, 958 (9th Cir. 2008) (quoting 28 U.S.C.
28 § 1915(e)(1)). Such discretion may be exercised upon a showing of exceptional circumstances.

1 *See Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Burns v. County of King*, 883 F.2d
2 819, 823 (9th Cir. 1989). “To show exceptional circumstances the litigant must demonstrate the
3 likelihood of success and complexity of the legal issues involved.” *Burns*, 883 F.2d at 823
4 (citation omitted). Neither the likelihood of success nor the complexity of the case are
5 dispositive; both must be considered. *Terrell*, 935 F.2d at 1017.

6 Here, it appears that at this stage of the proceedings, Plaintiff has a sufficient grasp of his
7 case, the legal issues involved, and is able to adequately articulate the factual basis of his claims.
8 Just recently, Plaintiff successfully moved to reopen this matter after judgment had been entered
9 on behalf of Defendants. Under these circumstances, the Court DENIES Plaintiff’s Motion for
10 Appointment of Counsel [ECF No. 98] without prejudice at this time.

11 **IT IS SO ORDERED.**

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13 **DATED: April 1, 2011**

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15 **IRMA E. GONZALEZ, Chief Judge**
16 **United States District Court**
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